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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/745,404

12/21/2000

Kenneth D. Ray

MSI-704US

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7590

12/24/2003

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EXAMINER

CASIANO, ANGEL L

ART UNIT

PAPER NUMBER

2182

DATE MAILED: 12/24/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/745,404

Applicant(s)

RAY ET AL.

Examiner

Angel L. Casiano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 and 32-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-28 and 32-40 is/are allowed.
- 6) ☒ Claim(s) 1, 4, 6-8, 11 and 13 is/are rejected.
- 7) ☒ Claim(s) 2, 3, 5, 9, 10 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3. 6) ☐ Other:

DETAILED ACTION

Response to Amendment

1. The present Office action is in response to Amendment filed 05 November 2003.
2. Claims 1-28 and 32-40 are pending. Claims 29-31 have been cancelled.
3. Claims 14-28, 30-31, and 33-35 were allowed in previous Office action. Claims 2-3, 5, 9-10, 12, and 38-39 were objected to as being dependent upon a rejected base claim.

Information Disclosure Statement

4. The information disclosure statement (IDS) submitted on 05 November 2003 was filed after the mailing date of the Office action on 05 August 2003. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Drawings

5. Objection to the Drawings has been overcome with the corrections filed in the Amendment.

Claim Objections

6. Objections to claims 29 and 32 have been overcome with the corrections filed in the present Amendment. Claim 29 has been cancelled. Claim 32 is therefore allowed.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 4, 6-8, 11, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson [US 6,591,310 B1] in view of Wilson et al. [US 6,260,084 B1].

Regarding claim 1, Johnson teaches a method (see Abstract; col. 1, line 20). The cited method includes providing a descriptor, configured to make messaging between hosts more efficient (see col. 4, lines 61-66). Johnson also discloses USB devices (see col. 13, lines 15-17). Although Johnson does not cite “a set of non-standard class codes”, it does teach a descriptor for any class of message (see col. 5, lines 36-40). The reference also teaches program code (see col. 5, line 42). In addition, in response to receiving a device request, the descriptor is sent to a requestor (see col. 6, lines 1-3). However, although Johnson does not explicitly teach “non-standard class codes”, Wilson et al. teaches class definition for USB communication (see col. 1, lines 18-23). Accordingly, Johnson teaches providing a descriptor when a condition is not met (see col. 5, lines 17-22). It would have been obvious to one of ordinary skill in the art at the time the invention was made that the disclosure by Johnson suggested non-standard class codes, since it cites “a corresponding request for any class of message” (see col. 5, lines 39-40). Furthermore,

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Wilson et al. teaches class specification for communication in USB devices and therefore the combination of references would have suggested codes not conforming to a particular USB specification.

As for claim 4, Johnson teaches a descriptor. The reference suggests a control function section in the descriptor (see col. 19, lines 1-10) corresponding to a function for a USB device (see col. 13, lines 15-17; col. 19, line 18). The step of determining that a “predefined condition” has not been met would have made necessary a “control function section” in order to generate a “reply message”.

In consideration of claim 6, it constitutes the computer-readable media containing the program for the method in claim 1. This claim is therefore rejected under the same rationale.

Regarding claims 7 and 8, Johnson teaches a method (see Abstract; col. 1, line 20). The cited method includes providing a descriptor (see col. 4, lines 61-66) of a USB device (see col. 13, lines 15-17) by a device request (see col. 6, lines 1-3). Johnson also includes determining and loading compatible device drivers based on indications from the descriptor (see col. 6, lines 48-56; col. 13, lines 37-39, 50-51, 60-64). Although Johnson does not cite “a set of non-standard class codes”, it does teach a descriptor for any class of messages (see col. 5, lines 36-40) as well as program code (see col. 5, line 42). In addition, in response to receiving a device request, the configuration descriptor is sent to a requestor (see col. 6, lines 1-3). However, although Johnson does not teach “non-standard class codes” explicitly, Wilson et al. teaches class definition for

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USB communication (see col. 1, lines 18-23). Accordingly, Johnson teaches providing a descriptor when a condition is not met (see col. 5, lines 17-22). It would have been obvious to one of ordinary skill in the art at the time the invention was made that the disclosure by Johnson suggested non-standard class codes, since it cites “a corresponding request for any class of message” (see col. 5, lines 39-40). Furthermore, Wilson et al. teaches class specification for communication in USB devices and therefore the combination of references would have suggested codes not conforming to a particular USB specification.

As for claim 11, Johnson teaches a descriptor. The reference suggests a control function section in the descriptor (see col. 19, lines 1-10) corresponding to a function for a USB device (see col. 13, lines 15-17; col. 19, line 18). The step of determining that a “predefined condition” has not been met would have made necessary a “control function section” in order to generate a “reply message”.

In consideration of claim 13, it constitutes the computer-readable media containing the program for the method in claim 7. This claim is therefore rejected under the same rationale.

Allowable Subject Matter

9. Claims 14-28 and 33-35 were allowed in previous Office action. Claims 32 and 36-40 are allowed in view of the corrections and arguments presented in the Amendment.

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10. Claims 2-3, 5, 9-10, 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

11. Applicant's arguments filed 05 November 2003 have been fully considered but they are not persuasive. Accordingly, claims 1, 4, 6-8, 11 and 13 are rejected in the present Office action.

12. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In particular, applicant argues the basis for rejection of claim 1, by considering the references individually. Regarding applicant's argument that the references do not teach the claimed limitations individually, *In re Conrad*, 169 USPQ 170 (CCPA 1971) establishes that the test for obviousness under 35 U.S.C. 103 is not the express suggestion of the claimed invention in any or all of the references, but what the references taken collectively would suggest.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Mc Glone et al. [US 6,394,900 B1] teaches a slot reel peripheral.

- Sartore et al. [US 6.249.825 B1] discloses a Universal Serial Bus interface system and method.

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angel L. Casiano whose telephone number is 703-305-8301. The examiner can normally be reached on 800-500pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on 703-308-3301. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7239 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

alc

December 19, 2003


JEFFREY GAFFIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100